Alberta Government

Handbook of Instruments Pursuant to Public Lands Act & Public Land Administration Regulation (PLAR)

February 26, 2013

Public Lands Administration
Information Series
(Part 1)

Handbook of Instruments Pursuant to *Public Lands Act* & Public Lands Administration Regulation (PLAR)

Prepared by
Project Management Branch
Integrated Resource Management Planning Division
Environment and Sustainable Resource Development

February 26, 2013

(Version 1)

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Foreword

I am pleased to provide a copy of the 'Handbook of Instruments' pursuant to the *Public Lands Act* and the Public Lands Administration Regulation (PLAR). This handbook, first of four, is part 1 of the information series on public lands administration, prepared by the Project Management Branch as part of the Public Lands Administration Regulation (PLAR) implementation project. The objective of developing the four part series is to communicate to staff in Environment and Sustainable Resource Development of the PLAR changes and how the changes impact their day to day work.

Developing this handbook became critical, due to the *Public Lands Act* and the PLAR changes. However, the need for developing such a handbook has long been recognized as a priority for knowledge transfer and for training staff in the day to day management and administration of public lands. The handbook fulfills a long term need in helping staff understand the instruments used in the day to day management and administration of public lands.

The handbook is also the foundational piece and a significant reference material for further work to be done by various PLAR implementation project task teams. The handbook provides the basic framework from which the standard operating procedures as well as other directives and information letters will be developed.

Focus of the information series is provisions in the *Public Lands Act* and PLAR, specific to dispositions, appeals, disposition maintenance (processes such as renewals, amendments and assignments) and management of vacant public land. The four part information series consists of the following:

Part 1 – Handbook of Instruments

Part 2 – Appeals

Part 3 – Disposition Maintenance

Part 4 - Management of Vacant Public Land

Part 1 (Handbook of Instruments) focuses on the changes to the way dispositions are defined and are to be managed as a result of PLAR. The other three parts of the information series are in development and will be made available in the coming months. With PLAR being a new regulation, each part of the information series will also be updated over time with iterative versions as we learn more about this regulation as it is applied and implemented.

The handbook was developed by Vanee Narayanan with valuable review and input from the PLAR project working group. This handbook was also provided legal review by the Environmental Law Section.

As this is intended to be a "live document" to grow over time, if you have questions, comments or need further clarification on any aspect of the handbook or intent of the information series, please contact Vanee Narayanan either by email at vanee.narayanan@gov.ab.ca or by phone at 780-415-4644.

Original signed by

Todd Letwin,
Director, Project Management Branch
Integrated Resource Management Planning Division
Environment and Sustainable Resource Development

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Introduction

The objective of this handbook is to provide an overview of the instruments used in public land administration, under the authority of the *Public Lands Act* and pursuant to PLAR. While all the instruments authorized under the *Public Lands Act* and PLAR are briefly discussed, the handbook is focused on the classification of dispositions and the type of dispositions issued.

The *Public Lands Act* was amended in April 2010 and PLAR came into force on September 12, 2011. These developments redefined some of the ways public land administration is to be carried out. Consequently, there is a need for some of the instruments and a few of the accompanying processes to be revamped.

In the case of some instruments, the *Public Lands Act* provides detailed rules, while in some other instances there are gaps that are filled by regulations, such as PLAR. Where the *Public Lands Act* is the primary source of rules that apply to a particular instrument, PLAR did not affect the administration and management of that instrument. For example, the *Public Lands Act* provides detailed rules for transfer of title (sales and exchanges), orders, reservations, etc. As a result, processes relating to sales, exchanges, reservations, notations, orders in council and transfers of administration are unaffected by PLAR. Where the Act does not provide detailed rules, as in the case of dispositions and vacant public land, PLAR fills in the details by providing comprehensive rules regarding issuance and maintenance of dispositions and management of vacant public land.

The purpose of this handbook is to explain the differences between the way the types of dispositions were used prior to PLAR and how they must be used after PLAR. In order to appreciate the differences, one must understand the context in which the various pieces of legislation and regulations operate.

The handbook provides an overview of public lands administration, the applicable statutes and regulations and their relationship within the Alberta regulatory system, brief history and background to the *Public Lands Act* 2010 amendments, and the consolidation of regulations leading to PLAR. Within this context, the focus of the handbook is the description of the various instruments used in the public lands administration and the classification of dispositions prior to and after PLAR[1].

[1] This handbook is a foundational piece in explaining the day to day management and administration of public lands, in addition to being a significant reference material for further work to be done by various PLAR implementation project task teams.

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Public Land Administration[2]

In common Government of Alberta usage, the term "public land" does not include federal Crown land. The *Public Lands Act* applies only to public land that is under the administration of the Minister of Environment and Sustainable Resource Development. The term "public land" in common Government of Alberta usage therefore applies only to lands administered by Environment and Sustainable Resource Development and does not include land administered under various other Alberta provincial departments, for example, lands administered by Tourism, Parks and Recreation, Municipal Affairs, Transportation etc. In Special Areas administered by the Special Areas Board under Municipal Affairs, provisions of the *Public Lands Act* and regulations are made applicable by a Ministerial Order made under the *Special Areas Act*.

Approximately 60% of Alberta's land base, or approximately 100 million acres, is public land. Alberta Environment and Sustainable Resource Development is responsible for the administration and management of all public lands in a manner that ensures development and use of public lands for the maximum benefit of all Albertans and supports environmental, economic and social objectives. An integrated resource management philosophy is used in managing the resource uses and need for public lands. While public lands are used for industrial development, timber production and livestock grazing, they are also important for recreational uses, watershed protection, wildlife habitat and conservation purposes.

Environment and Sustainable Resource Development also manages and administers tax recovery land under provincial ownership, as public land, but provides the revenues received on this land to the municipality. Tax recovery land without commanding environmental sensitivity is transferred to the municipality upon request for $1 per parcel. Once tax recovery land is transferred, the municipality is responsible for the administration and management of the land. It is anticipated that all tax recovery lands will be transferred by to municipalities by 2017.

Administration and management of public lands involve determining the best and most appropriate use for the land, using the most appropriate instrument for authorizing land use and ensuring that the land is used in a proper manner. A number of instruments, such as leases, licences, permits, agreements, authorizations, reservations etc. are used to authorize land use on public land and also to monitor the use to ensure that the operations and development meet the requirements including reclamation and established standards.

[2] The discussion does not include the treatment of road allowances, water bodies, vacant public land etc as the document is mainly focused on the treatment of dispositions on public land. Part 4 of the information series will address issues dealing with administration of vacant public land, road allowances etc.

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Authority for Administration

This segment provides an overview of the legislation and the regulations[3] that directly impact and are relevant to public land administration, and also interface with provisions in PLAR. The details regarding application of the legislation and regulations and the staff delegation of authorities will be provided in subject specific standard operating procedures or staff directives.

The *Public Lands Act* and the regulations pursuant to the Act, provide the Minister of Environment and Sustainable Resource Development and the designated directors with the authority to carry out the administration and management of public lands.

The regulations pursuant to the *Public Lands Act* include:

- Public Lands Administration Regulation (PLAR)
- Recreational Access Regulation
- Exploration Dispute Resolution Regulation
- Land Stewardship Fund Regulation

The Minister of Environment and Sustainable Resource Development has the authority under Part 8 of the *Mines and Minerals Act* to permit geophysical explorations, and mines and minerals explorations on public land. The regulations pursuant to the Mines *and* Minerals Act include:

- Exploration Regulation
- Metallic and Industrial Minerals Exploration Regulation

Some parts of the Alberta *Environmental Protection and Enhancement Act* dealing with reclamation on 'specified land' are applicable to public land administration and are dealt with under the Conservation & Reclamation Regulation.

In addition to the above, forest reserve grazing allotments are authorized under the *Forest Reserves Act* and the Forest Reserves Regulation. A grazing allotment under the *Forest Reserves Act* is considered a vacant disposition area under PLAR (to be discussed in the document dealing with recreational access and vacant public land).

When there is no active harvest operation, timber dispositions under the *Forests Act* are considered vacant disposition areas. Section 20 of the *Public Lands Act* allows the timber disposition holders to enter and occupy public land by virtue of the dispositions they hold under the *Forests Act*.

In addition, the Minister of Environment and Sustainable Resource Development, as the owner of public land in Alberta, provides consent for subdivisions under sections 85 (3) and 89 (3) (c) under the *Land Titles Act*.

Staff responsible for land issues have the delegated authority to accept service of documents pursuant to section 40 (3) of the *Surface Rights Act* and to sign the consent form on behalf of the Deputy Minister Environment and Sustainable Resource Development.

The Minister of Environment and Sustainable Resource Development also has responsibility for the Horse Capture Regulation, pursuant to the *Stray Animals Act*, that allows the Minister to issue licenses to capture free-roaming horses in a designated area of south western Alberta.

There are several other statutes and regulations, for example the *Surveys Act* and the *Water Act* and the Hunting Regulations, that are not mentioned in this segment but impact the public land administration from time to time. The reason is that the main focus of the discussion in the following

[3] Not all the statutes and the regulations are mentioned here, but only the statutes and regulations that have a direct impact on land administration and that interface with PLAR are included. All the statutes and regulations administered by ESRD are available on the external website at http://www.qp.alberta.ca/.

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pages is with respect to the instruments used under the *Public Lands Act* and PLAR. However, some of the permissions granted under the *Mines & Minerals Act* are included and discussed briefly because of their relevance to PLAR and the public land administration.

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Brief History and Background

The *Public Lands Act* was created more than 60 years ago, as a land allocation tool, to support the orderly allocation, development and use of public land. Consequently, the public lands regulatory system existing prior to 2010 was out of date and was unable to adequately meet the growing multiple-use demands for renewable and non-renewable resources on the public land base. The *Public Lands Act* in particular was limited in its tools, authorities and capacity to manage the use of vacant public land, with poorly defined discretionary powers and limited transparency. Compliance assurance tools in the *Public Lands Act* were outdated making enforcement of the *Act* difficult and the legislation was not up to date in providing for fairness of some decisions through offering avenues of appeal.

In spring 2010, the *Public Lands Act* was amended to broaden the legislation beyond a land allocation tool and to provide for a more sustainable approach to public land management. The amendments were focused around the three themes of public land management, compliance and enforcement and appeals and dispute resolution. In addition, these amendments enhanced the regulation-making authorities under the *Public Lands Act* and culminated in the need to review and update the regulations.

Public Lands Administration Regulation (PLAR)

PLAR is an outcomes-based regulation[4] that consolidated and updated the following four regulations under the *Public Lands Act:*

- Dispositions and Fees Regulation
- Forest Recreation Regulation
- Castle Special Management Area Forest Land Use Zone Regulation
- Unauthorized Use of Land and Recovery of Penalty Regulation

PLAR is a provincial law of general application, written to apply to any activity by anyone on public land. PLAR does not apply to private land and does not change leaseholder rights.

PLAR is designed to provide a legislative and regulatory framework to deal with the growing demands for renewable and non-renewable resources on the public land base and to better balance resource development, recreational use and access, while still meeting environmental performance through conservation and stewardship outcomes.

[4] An outcomes-based regulation focuses on desired outcomes (economic, environmental and social) instead of prescribing behavior and technical requirements. Defined outcomes are provided in the regulation, and persons bound by the regulation are free to meet the outcomes in the ways most suited to their operations and needs. PLAR holds the Crown as well as the clients accountable for outcomes and provides for transparency, consistency and clarity in decision making.

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Provisions in PLAR include:

- Clearly defined and clarified processes for issuance of dispositions
- Clear rules around the lifecycle of dispositions.
- A more robust framework to enable management of vacant public land
- Stronger administrative and enforcement tools
- A credible compliance and enforcement framework that is in line with the *Water Act* and *Environmental Protection and Enhancement Act*.
- An appeals and dispute resolution process to promote transparency and accountability
- Easier access to information through routine disclosure processes

PLAR is the result of extensive consultation in 2011 with Alberta Government staff, key stakeholders, user groups, the general public and First Nations.

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Instruments Granted

This segment discusses the instruments used in reference to various aspects of the land administration and management of public lands. The instruments are provided for in the *Public Lands Act* and the regulations and can be broadly classified into the following categories:

(i) Orders (includes Order-in-council, Ministerial Orders, Orders of a director, and Orders of an officer)

(ii) Notifications and Sell-back Agreements (includes gifts, sales and exchanges)

(iii) Reservations and Notations

(iv) Leases, licences, permits, agreements, authorizations and approvals – collectively known as "dispositions"

As indicated previously in this handbook, the rules with respect to notifications and reservations were not affected by the 2010 *Public Lands Act* amendments or the PLAR. Therefore, the handbook includes only a broad description of the notifications (types), reservations and notations.

Some provisions with respect to the Ministerial orders, director orders and officer orders were added as a result of the 2010 amendments and PLAR. Therefore, the new provisions along with the ones that were already in the *Public Lands Act* and a general description of the orders are included in the following segment. The details on how and when the orders are to be issued and the standard operating procedures on how the orders are to be processed will be dealt with separately in other documents.

The focus of the discussion in the following segments is on the various types of dispositions (leases, licenses, agreements, permits and authorizations) and how they relate to the classification of dispositions provided in PLAR. Acronym shown in parenthesis is the acronym currently used in the departmental land registry system - Geographic Land Information Management Planning System (GLIMPS).

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Orders

Order in Council:

The Act authorizes the Executive Council to transfer the administration of public lands from the Minister of Environment and Sustainable Resource Development to any other Minister of the Crown, to any Crown corporation or to the Crown in right of Canada. Such transfers could occur for any purpose, for example, establishment of a provincial park. Orders in Council may also authorize sale of public lands to municipalities.

In some cases, an Order-in-Council is used to set aside or give an interest in Alberta public land to Canada for purposes such as national defence. Examples include the Cold Lake Air Weapons Range, Camp Wainwright, and Canadian Forces Base Suffield. Another example is public lands set aside for the federal government by Order in Council for the purpose of agricultural research. As of 2012, there are two Agricultural Research Stations (ARS) registered in GLIMPS. In some cases, Orders-in-Council have been used to establish provincial grazing reserves (PGR).[5]

An Order-in-Council may authorize the director or the Minister to make dispositions or grants for which no provision exists in the Act or regulations. Examples include leases for more than the maximum terms provided in PLAR.

Orders in Council also make some regulations under the *Public Lands Act*. Some regulations are done under Ministerial Order.

Ministerial Order:

The Act and PLAR empower the Minister to do many things by Ministerial Order. Ministerial Orders are made by the Minister, Deputy Minister or authorized delegates of the Minister. The number shown in parenthesis in the entries below is the applicable section from the *Public Lands Act* or PLAR. Provisions included as a result of the amendments to the *Public Lands Act* (2010) and PLAR are bolded. A Ministerial Order is used to:

- Prescribe or provide for the manner of prescribing rent for dispositions, fees and other charges, fees and other costs payable for settling disputes, other assignment fees (*PLA* – section 9.1)
- Establish Green Area and White Area (*PLA* – section 11)
- Transfer administration of area that is less than 640 acres (*PLA* 12)
- Establish community grazing reserve - PGR (PLA 107)
- **Issue orders with respect to appeals of decisions (*PLA* 124)**
- Issue a road use order following an appeal process under part 10 of PLAR (*PLA* – section 124)
- **Establish Disturbance Standards (PLAR – section 3)**

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[5] Currently there are 32 Provincial Grazing Reserves in place. On April 1, 1999, the responsibility for the care, handling and management of livestock and the forage resources was transferred to grazing reserve associations. Management and use of the grazing reserves by the associations and their members are governed by grazing management agreements.

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- Authorized entry and removal of surface materials for public roads or other public works (PLAR – section 115)
- Close an area that has been designated as a trail riding management area (PLAR – section 133)
- Establish specific types of dispositions in respect of public land for which no disposition is specifically provided for in the *Public Lands Act* or the pursuant regulations (PLAR – section 144)
- **Order disclosure of information in the public interest (PLAR – section 166)**
- **Require the Department (ESRD) to publish the particulars of an enforcement action taken (PLAR – section 172)**
- **Appoint Public Lands Appeal Board under PLAR, part 10 (PLAR section 214)**

Order of a director[6]:

The *Public Lands Act* and PLAR empower the staff members that are designated by the Minister as 'directors' to do many things by an order. Listed below are the specific sections where a director is able to issue an order. Provisions that were included as a result of the amendments to the *Public Lands Act* (2010) and PLAR are bolded.

It should be noted that while the provisions in the *Public Lands Act* and PLAR provide the director with the authority to issue orders, the actual authority for a staff member to issue an order flows from the designation order, issued by the Minister of Environment and Sustainable Resource Development. As such, only staff members that are designated by a Ministerial Order as 'director' for a specific provision are able to issue the director's order.

Ministerial Order 19/2011 provides the current information on director designation.
A copy of the Ministerial Order 19/2011 is available at ESRD.PR@gov.ab.ca

A director's order is used to:

- Reinstate a disposition (*PLA* – section 28)
- Authorize an officer to seize any grain owned by a lessee who defaults in payment of rent (*PLA* – section 46)
- Order a person to vacate public land when the person unlawfully occupies public land (*PLA* – section 47.1)
- Dispose of goods seized (*PLA* – section 52)
- **Issue an enforcement order for contravention of an ALSA regional plan, the Act or the regulations (*PLA* – section 59.1)**
- **Issue a stop order (*PLA* – section 59.2)**
- **Issue further order as appropriate if there is failure to comply with the enforcement order (*PLA* – section 59.21)**
- **Provide notice of administrative penalty (*PLA* – section 59.4)**

[6] Note – the term 'director' under the *Public Lands Act* and PLAR uses small d instead of capital D. This is to distinguish a Director of a branch or a division (job title) from the designation under the Act and PLAR as a director for decision making.

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- Prohibit or restrict entry to all or any part of public land recreation area or public land recreation trail (*PLA* – section 71.2)
- Prohibit or restrict any use or activity in all or any part of a public land recreation area or public land recreation trail (*PLA* – section 71.2)
- Require a disposition holder to carry out work to comply with the terms and conditions of the disposition (PLAR – section 22 (2))
- Direct reclamation of land (PLAR – section 23 (4))
- Close the road under a Licence of Occupation and impose terms & conditions regarding road closure (PLAR – section 96)
- Require an operator to conduct an exploration program to provide proof of existence of surface materials (PLAR – section 117)
- Issue an order respecting bison (PLAR – section 169)
- Restrict or prohibit for any specified period of time entry into all or part of the lands within a public land use zone (PLAR – section 184)

Order of an officer

The *Public Lands Act* and PLAR empower an 'officer' to do many things by an Order. The term 'officer' is defined in the *Public Lands Act* section 1(o)[7] and includes an officer appointed under the authority of section 5[8] of the *Public Lands Act*, an Assistant Deputy Minister, a director, a member of the Royal Canadian Mounted Police (RCMP), a member of the police service (other than the RCMP) who is authorized to act, a conservation officer, a forest officer, a wildlife officer and a peace officer. These "*ex offcio*" officers (those who are officers because of their particular appointments under other legislation) were included in the Act so that multiple agencies could legally enforce the provisions of the *Public Lands Act* to support public lands administration and management objectives. Listed below are the specific sections where an officer is able to issue an order. Provisions that were included as a result of the amendments to the *Public Lands Act* (2010) and PLAR are bolded.

An officer order is used to:

- **Issue a stop order[9] (*PLA* – section 59.2, new)**
- Order a person in a public land use zone, public land recreation area or public land recreation trail to refrain from doing anything that is dangerous to life or property or detrimental to the management or use of any road, trail or route (PLAR – section 182)
- By order direct a person to vacate the public land recreation area for unauthorized use, contravention of the statute or regulations, creating nuisance, committing trespass etc (PLAR – section 201)
- By order direct a person to eliminate nuisance from a campsite in a public land recreation area and restore a campsite to the condition satisfactory to the officer (PLAR – section 205)

[7] For more specific details on how an officer is defined, see the *Public Lands Act*, section 1 (o)
[8] The current appointments of Lands Officers are found in Ministerial Order 30/2004, August 10, 2004

[9] Stop order is appealable – more details of the appeal provisions will be discussed under part 2 of the information series on appeals.

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Bullets 2, 3 and 4 (officer order) were previously (prior to the *Public Lands Act* 2010 amendments and PLAR) authorized under the *Forests Act* and the Forest Recreation Regulation. There is no change to the content of those provisions.

Stop order is a new tool and one that is appealable under the provisions of the *Public Lands Act* and PLAR. It is important to note that **standard operating procedures need to be in place prior to officers using stop orders to enforce provisions of the *Public Lands Act* and PLAR.**

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Notifications[10]

Notifications fall into three categories, gifts, sales and exchanges

Gifts of Land:
The *Public Lands Act* empowers the Minister to give land to schools, cemeteries, churches, and community halls free of charge. These gifts are often subject to sell-back agreements that require the grantee to give the land back if it is no longer being used for the intended purpose. The provision in the *Public Lands Act* refers to these gifts as "grants" in the sense of a government grant in the public interest, and not a "grant" as defined in the Act (letters patent or notification).

Sales
These instruments are used to issue notification or title to the land in favour of the client. Sale of public land in the forested, non-settled area is limited, with some exceptions for high intensity commercial or industrial development. Public land adjacent to significant water bodies is also not available for sale. Public land available for sale is offered through an auction/tender process. Most sales are cash sales however term sales are also issued (based on the circumstances). When fee simple title is transferred as the result of a sale or exchange, the transaction becomes a "grant" as defined in the *Public Lands Act*. The various types of sales include:

Farm Development Sale (FDS)
Public land in the process of being sold – these are term sales up to 25 years issued at one time for farm consolidation. Once the purchase price (principal and interest) is paid, title is transferred to the sale disposition holder.

Public/Private Land Sale (PLS)
These are sales either done on a priority basis (private land sale) or by auction (public land sale). They can be cash sales or term sales (but government does not provide financing).

Note: Options to Purchase
A small number of dispositions, usually leases, contain an option to purchase the leased land, if certain conditions (such as development, payment of purchase price) are met.

Exchanges
Exchanges are used to acquire land of benefit to government's objectives (i.e., conservation, wildlife or other public benefit) without financial outlay by the government. An exchange can proceed if there is a net environmental gain or a program value to government. If the land being exchanged is of lesser value, an additional monetary payment from the purchaser would be required to create a fair exchange.

[10] Notification is defined in section 1 (n) of the *Public Lands Act*. Sections 30-34 of the Act provide the details with respect to notifications on public land.

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Reservations and Notations[11]

Reservations

These are instruments used to set aside lands for other departments, governments or legal entities. They can be registered against the land for an indefinite term (if required). Reservations are used to reserve public land (including any interest in public land) in favour of the Crown in right of Canada, any department of the government[12] or any person, without executing a disposition for it, for any reason and for any period, subject to any terms and conditions. There are two types of reservations - disposition reservations (DRS) and holding reservations (HRS).

Disposition Reservation (DRS)

This reservation authorizes government use of public land for public works (e.g. drainage structures, gravel pits, fire lookouts). It is issued under section 18 (c) of the *Public Lands Act*. Disposition reservations are the Crown equivalent of a disposition but they are not dispositions (as defined in the *Public Lands Act*). This is because the Crown is not disposing of rights, but instead is reserving rights it already has. In rare instances, where there is transfer of monies (from the federal government) the DRS is identified as a DRC (only in the Corporate Accounting and Reporting System for reporting revenue).

Holding Reservation (HRS)

This reservation is placed against public land when an agency is in the process of determining or has determined a specific future land use, but has not put any specific plan in place. It serves to hold the land pending an approved development plan or policy decision.

Notations

These are instruments used to identify a management intention regarding certain land by government departments or individuals. Notations can also be registered for any length of time. Historically, instruments have included notations such as protective notations and consultative notations. Disturbance Standard is a new tool available in PLAR that could complement the notations in the future. The types of notations that are currently being used include the following:

[11] The intent of the segment is to provide a brief overview of reservations and notations and to indicate that they are types of instruments made available under the *Public Lands Act*. Staff may access further information on reservations and notations at esrd.alberta.ca and search for Guides for Forms Completion.

[12] Refers to the Government of Alberta

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Consultative Notation (CNT)
CNT is used to identify a management intention for an area of land (e.g. administrative, planning or land inventory process) by a particular agency. These are not land use restrictions, but alert potential applicants to an agency's concern.

Company Consultative Notation (CNC)
CNC is equivalent to a CNT and indicates that a company or an individual with a justified interest in the land wishes to be consulted prior to any commitment of the land. Unlike a CNT, companies and individuals are charged a fee for registering a CNC.

Designated Historic Resource (DHR)
The entry identifies sites that have been designated under the *Historical Resources Act* and includes historic sites, archaeological resources, historic resources etc. The designation serves to recognize the significance of a historic resource and protect it legally.

Ecological Reserve Area (ERR)
These identify sites that have been designated as an Ecological Reserve by an order in council under the *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act* ("WAERNAHR"). The entry can only be removed by a rescinding order in council.

Heritage Rangeland Natural Area (HRG)
This entry identifies sites that have been designated as a Heritage Rangeland Natural Area. The site is designated by an order in council under the WAERNAHR and can be removed only by a rescinding order in council.

Industrial Sample Plot (ISP)
This entry indicates a forest company's interest in an area covering a permanent sample/research within their forest management agreement area. ISP provides the forest company with a form of protection for its plots.

Natural Area (NAA)

NAA identifies lands that have been designated as a Natural Area by an order in council under the WAERNAHR and the entry can be removed only by a rescinding order in council.

Protective Notation (PNT)[13]
PNT is a notation placed by public agencies in consultation with the land manager. They identify land and resources that are to be managed to achieve particular land use or conservation objectives, and specify different levels of allowable land use.

[13] Other reservations that deal with roadways (RDS) and provisional roadways (RRS) are not included in this segment. They will be discussed as part of the vacant public land & vacant disposition area in the upcoming document (part 4 of the information series).

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Dispositions

The instruments executed pursuant to section 15 of the *Public Lands Act* that are used to convey an estate, interest, right or privilege on public land are referred to as 'dispositions'. As defined in the *Public Lands Act* a "**disposition**" means any instrument executed pursuant to this Act (*Public Lands Act*)..., whereby,

(i) any estate or interest in land of the Crown, or

(ii) any other right or privilege in respect of land of the Crown that is not an estate is granted to any person but does not include a grant.

Authorizations are a class of dispositions issued under section 20 of the *Public Lands Act* authorizing immediate entry and occupation of public land for specific purposes. They are generally to be issued for efficient short term access[14].

However, until recently (prior to PLAR coming into effect), Section 20 of the *Public Lands Act* was frequently used to issue leases, licences, agreements, permits and temporary field authorizations. Issuance of instruments under section 20 was referred to as providing the applicant with a 'Letter of Authority'. It was common practice to issue a letter of authority regardless of the duration of the disposition, whether it was for short or long term – for example, a letter of authority was issued to approve a lease, licence, agreement, permit, or an authorization. Also, prior to PLAR, the term disposition[15] was commonly used in the public land administration lexicon to refer to issuance of instruments such as leases, licences, permits and agreements that were other than the ones issued under section 20 of the *Public Lands Act* (Letter of authority).

The dispositions and the letters of authority, prior to PLAR were classified on the basis of.

- the type of activity (agricultural, industrial, commercial, recreational etc) ,
- disposition holders' rights (leases vs. permits),
- length of tenure of the disposition (leases, licences, permits etc)

The focus on the type of activity led to multiple disposition types all of which operated under its own process. This created uncertainty for the client and inefficiency when multiple activities were required for one project. Furthermore, the heavy reliance on section 20 of the *Public Lands Act* to issue long term leases to expedite issuance, did not meet the intent of section 20 (to grant immediate access for the short term) and also led to uncertainties for the client and the department.

PLAR, in addressing the two issues, establishes three classes of dispositions regardless of the type of activities. The classes are formal dispositions (to be issued under section 10 of PLAR), authorizations (to be issued under section 12 of PLAR) and approvals (to be issued under section 14 of PLAR).

The three classes are distinguished by

- whether the instrument conveys an interest in land or whether it merely provides a right or privilege with respect to public land

[14] This is the outcome hoped for in the long run. The current practice may not reflect this view in all cases (authorizations are used for a variety of reasons and are not always temporary short term access.)

[15] The term disposition was more commonly used to refer to the status of an instrument under the Land Status Automated System (LSAS- not in effect now and has been replaced by GLIMPS) as status '5' (disposition) versus status '2' (letter of authority).

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- the rights and obligations of the disposition holders (for example, the type of tenure, exclusive use, ability to assign, sublet etc)
- the amount of due diligence required before a particular disposition is issued (one year for a formal disposition versus 90 days for an authorization)
- complexity involved in the processing of applications (same as above)

The dispositions issued under PLAR include leases, licences, permits, agreements, authorizations, and approvals. Under PLAR classification of dispositions,

- all leases are formal dispositions
- licences and permits are formal dispositions or authorizations
- agreements are formal dispositions or authorizations or approvals

In the future, once PLAR is fully operational, the licences, permits and agreements that are issued for a short term may not be referred to as licences, permits etc, and may be replaced by authorization for grazing, authorization for surface material exploration etc[16]

[16] More of the PLAR classification of dispositions is discussed in the next segment

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PLAR Classification of Dispositions

The three classes of dispositions identified in PLAR are:

- Formal dispositions,
- Authorizations
- Approvals

Formal dispositions:

They are dispositions issued under the *Public Lands Act* and include 12 numbered instruments bearing a title and a number (for example GRL 000001, FDL 000001 etc) and consist of

- six lease types (grazing leases, farm development leases, mineral surface leases, miscellaneous leases, surface material leases and pipeline installation leases),
- two licence types, (licence of occupation and grazing licences),
- two permit types (commercial trail riding permits and cultivation permits),
- easements (including rural electrification easements)
- pipeline agreements.

Important elements of formal dispositions are:

- Formal dispositions are issued under PLAR section 10
- Application requirements and timelines are provided in PLAR section 9
- All formal dispositions may be renewed
- All formal dispositions (except for cultivation permits) may be reinstated, assigned, transferred or mortgaged (subject to meeting all requirements)
- Of the formal dispositions, only leases are allowed to be sub-let (i.e. only six out of twelve formal dispositions may be sub-let).

Authorizations

They are dispositions issued for short term access of vacant public land, under section 20 (1) (a) (b) or (e) of the *Public Lands Act* allowing a person to enter and occupy public land for a specified purpose.

- A director may issue authorizations under section 20 (1) (a) (b) or (e)
- An officer may issue authorizations under section 20 (1) (e).

Examples of authorizations include:

- temporary field authorizations,
- hay permit authorizations,
- access permits

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Important elements of authorizations are:

- An authorization is a stand alone disposition (it is not to be issued to meet the requirements of an existing formal disposition or another authorization)
- Although an authorization is normally issued on vacant public land, in very rare cases, they may be issued on leased lands, when and if certain criteria are met - further policy direction needs to be developed.
- Authorizations are issued under PLAR section 12.
- Application requirements and timelines are provided in PLAR section 11.
- Authorizations may be renewed. Some authorizations, for example authorizations for Coal Exploration Program (CEP) and Oilsands Exploration Program (OSE) are not renewed but they may be extended for an additional term.
- Authorizations cannot be reinstated, assigned, mortgaged, transferred or sub-let.

Approvals

They are dispositions issued to persons, on behalf of the department (Environment and Sustainable Resource Development) and grants to the person the permission or consent of the Minister, a director or an officer that is required under the Act, regulations, or the conditions of a formal disposition or an authorization. Examples[17] of approvals include:

- assignments,
- subleases,
- mortgages,
- transfers,
- range improvement agreements,
- reclamation approvals

Important elements of approvals are

- Approvals must relate to either a formal disposition or an authorization and are never a stand alone disposition.
- When the formal disposition is assigned or mortgaged, an associated approval goes with it (for example the range improvement agreement approval). An exception to this rule is the approval to graze bison (see section 157 - PLAR).
- Approvals generally expire along with formal dispositions and authorizations - i.e. the term of an approval should not exceed the term of the formal disposition or the authorization. Exceptions to this rule include reclamation approvals under section 23 of PLAR. During the term of a disposition or even after the disposition is cancelled or expired, the disposition holder or another person may apply for a reclamation approval. The reclamation approval is issued in connection with the disposition even if the disposition is expired or has been cancelled. The approval holder is bound by the terms and conditions of the disposition (even though expired or cancelled).

[17] This list is not exhaustive and includes only a few examples. Standard Operating Procedures on approvals will discuss the approvals issued under each specific type of formal dispositions (agricultural, industrial etc)

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- Approvals are cancelled (automatically) when a formal disposition or an authorization is cancelled. An exception to this rule is the conditional surrender of lease, which may remain in effect up to one year after a disposition that is mortgaged, is cancelled, according to the terms of the (CSL) agreement with the lender.
- Approvals are issued under PLAR section 14.
- Application requirements and timelines are provided in PLAR section 13.
- Approvals cannot be renewed, reinstated, assigned, mortgaged, transferred or sublet. Because it cannot be renewed, if an approval expires (prior to the formal disposition), a new approval may be issued in its place.

Approvals are of two types:

- Administrative approvals (part 4 of PLAR) consist of mortgages, assignments, subleases and transfers
    - mortgages, assignments and transfers are applicable only to formal dispositions (with the exception of cultivation permits)
    - sub-lease provision applicable only to leases
- Operational approvals are issued in order to conduct activities connected to formal dispositions and authorizations. Examples include log deck, temporary workspace, flare stack, flare pit, dugout, cross fence, etc.

It is important to note the difference between an authorization and an approval and to know when to issue an authorization versus an operational approval, if there is a request for an activity that could fall in both categories.

The basic element that distinguishes an operational approval from an authorization is whether or not the permission issued to carry out an activity is tied to an existing formal disposition or an authorization. Whether the activity is located within or outside the boundaries of the formal disposition or an authorization is not relevant. For example, temporary workspace required for work related to a formal disposition or an authorization would be an operational approval tied to that disposition (even if the workspace is outside the boundaries of the parcel under disposition). If similar temporary workspace is required for work not connected with an existing disposition, then a stand alone authorization would be issued. Key points:

- An approval is issued pursuant to a formal disposition or an authorization.
- Approval is never issued as a 'stand alone' disposition. It is always linked to a formal disposition or an authorization.
- Approval is issued whether the land on which an approval is issued is within or outside the boundaries of a formal disposition or an authorization
- An authorization is to be issued when the request for an activity is not tied to a formal disposition or another authorization

The main advantage of issuing an operational approval (instead of an authorization) is that the approval is tied to a formal disposition. As such, it is conceivable that issues relating to land management and reclamation can be better addressed (because the approval will stay on the land as long as a formal disposition tied to it is in effect) under this approach.

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An important question relates to amendments, i.e. whether we would consider an amendment as an approval (addition/deletion of land, change of name/s, change of purpose, change of other conditions (carrying capacity on grazing dispositions for example))? It is possible that in the long run, approvals could replace amendments. However, in the short run, (until all issues relating to amendments are ironed out) amendments are to continue as in the past.

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Historic (pre-PLAR) Classification of Dispositions and PLAR Linkages

While the *Public Lands Act* and PLAR refer to certain formal dispositions as "lease, licence, easements, and agreements", these terms can be misleading. In law, "lease, licence, and easement" have a specific meaning and convey specific rights. However, their use under the *Public Lands Act* and PLAR are not necessarily the same as in the common law. For example, a grazing lease has been interpreted by the Alberta Courts as an interest in land that has elements of a lease, but not exclusive rights to the land. In law, a true lease by definition grants exclusivity during its term. The Courts have said that a grazing lease only gives exclusivity to the extent required for using the grazing resource. When the land is not being used for grazing, then exclusivity does not apply.

This is the reason the Recreational Access Regulation and the concepts in PLAR related to vacant disposition areas were enacted. More detailed discussion of this aspect will be included in part 4 of the information series. Note also that section 2 of PLAR[18] provides that a holder of a disposition has only the interest expressly provided in the instrument.

At common law, dating back to the early days of the British legal system in the middle ages, certain interests in land (tenures) developed and were recognized by the Courts. Leases are a particular interest in land that originally carried all of the characteristics of fee simple ownership for the fixed duration of the lease. Over time, contractual principles enabled landowners to protect their interests by inserting specific provisions in the lease contract that prevented waste and damage to the land from occurring. Other common law interests in land include easements (permission to trespass), licences (permission to use the land without exclusive rights to it), and rights-of-way (permission to use a defined passage). Permits are creations of regulators to give permission for activities and are not traditional interests in land. Permits would fall under the "privilege" category in the definition of "disposition".

Lease

It is intended as a legal contract that grants exclusive use of a parcel of land or improvements to a client (lessee) for a specified period of time (often 10 years, but can be up to 25 years, occasionally even longer). Terms and conditions are set out in the lease document, which is signed by both parties. Leases (if all requirements are met) are renewable and can also be reinstated, assigned, mortgaged, sublet or transferred with approval from the department. All leases (grazing lease, farm development lease, mineral surface lease, miscellaneous lease, surface material lease and pipeline installation lease) are included in the definition of "formal disposition" in PLAR.

Important provisions relating to leases in PLAR are

- All leases are formal dispositions
- All leases can be renewed, assigned, mortgaged, transferred, sublet or reinstated.
- All leases are issued under PLAR section 10

Licence

[18] Section 2 – Subject to the Act and this Regulation, a disposition holder has only the estate, interest, rights and privileges, expressly provided in the disposition.

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It is a legal contract that grants the right to use the land but does not give exclusivity (for example, licence of occupation, grazing licence) and may be issued for terms of up to ten years. Licences are renewable. Licence of occupation and grazing licence are included as formal dispositions in PLAR, while surface material licence and public pit licence are considered authorizations.

Important provisions relating to licences in PLAR are

- Grazing licence and licence of occupation are considered formal dispositions
- Surface material licence and public pit licence are considered authorizations
- All licences may be renewed
- Grazing licences and licence of occupation may be assigned, mortgaged, transferred or reinstated but can not be sub-let
- Surface material licence and public pit licence can not be assigned, mortgaged, transferred, reinstated or sub-let

Permit

It is a legal contract that grants the right to use the land for a specified activity for a short period of time, usually not exceeding one year. Permits are issued for a variety of purposes including cultivation, grazing, industrial, commercial (trail riding for example) or personal use. While permits may be renewed, they (except for commercial trail riding permits) can no longer be assigned, sublet, mortgaged, transferred or reinstated. However, in estate cases, priority issuance of permits to beneficiaries may be allowed.

Over time, issuance of new permits will likely discontinue and instead authorizations would be issued for the same activities. Program areas need to review the existing permits and determine if some other formal disposition (if the permit is for a long term use) or authorization (if truly short-term) is more appropriate.

Important provisions relating to permits in PLAR are

- Commercial trail riding permits and cultivation permits are considered formal dispositions
- All other permits are to be considered authorizations
- All permits may be renewed
- Permits (except for commercial trail riding permits) can not be assigned, mortgaged, transferred, reinstated or sub-let

Agreement

Agreements are legal contracts between the Crown and a client agreeing to certain terms and conditions. Only pipeline agreements and easements are considered formal dispositions under PLAR. Most other agreements are pursuant to existing formal dispositions and are therefore considered approvals. If they are stand alone agreements, they would be authorizations. The term of the agreement is often indefinite or is tied to the parent agreement as in the case of range improvement agreements on grazing leases.

Agreements that do not convey an interest in public land are not formal dispositions but would be authorizations or approvals depending upon whether or not the permission to conduct the activity is tied to a formal disposition or an authorization. For example, ancillary agreements, range improvement agreements and road use agreements would all be considered approvals, while a facility rental agreement would be an authorization (because it is a stand alone disposition unrelated to an existing disposition).

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The *Government Organization Act* provides a general power for the Minister to enter into agreements. This general power should not be used to convey any interest in public land because the *Public Lands Act* is the more appropriate authority. The latter Act is designed for public land management, and when a specific tool is available, it should always be favoured over a general authority.

Important provisions relating to agreements in PLAR are:

- Only pipeline agreements and easements are considered formal dispositions
- Pipeline agreements and easements may be renewed, assigned, mortgaged, transferred, reinstated but may not be sub-let
- All other agreements would be classified as approvals or authorizations depending upon whether they are stand alone agreements or are tied to other dispositions.
- Stand alone agreements would be classified as authorizations and may be renewed, but can not be assigned, mortgaged, transferred, reinstated or sub-let
- All other agreements that are classified as approvals can not be renewed, assigned, mortgaged, transferred, reinstated or sub-let

Authorization

"Authorization" is defined in PLAR[19]. Prior to PLAR, authorizations were issued for short as well as long term use. Temporary field authorizations were used to permit activities relating to existing dispositions or to permit activities on vacant public land. However, in the future, authorizations should be issued as permission for non-exclusive, temporary use of public lands (e.g. soil-testing, campsites) when the duration of the activity is short term (preferably less than one year). Under PLAR, authorizations may be renewed, but they cannot be assigned, sublet, mortgaged, transferred or reinstated.

Important provisions relating to authorizations in PLAR are:

- Authorizations are stand alone dispositions not connected to any other existing disposition
- They are to be used for permitting activities (normally on vacant public land) for short term, for temporary non exclusive use
- Land that is subject of an authorization is considered a vacant disposition area (but exceptions may apply in case of agricultural dispositions)
- Authorizations may be renewed, but they cannot be assigned, sublet, mortgaged, transferred or reinstated.

As indicated previously, the PLAR classification of dispositions will result in a change of identification for some of the commonly known disposition types. For example, in the future the grazing permits, surface material licences etc. may be called by some other names such as authorization for grazing or authorization for surface materials.

It is important to note however that whether we refer to the pre-PLAR classification of dispositions or the PLAR classification of dispositions, the purpose of the dispositions remains the same. While we may refer to a grazing permit as an authorization for grazing under PLAR, the purpose for the disposition is still a short term use of the land for grazing purposes. PLAR did not change the nature of the department's business; what PLAR did was mandate a more streamlined, clearer and more transparent process and accountability for users and government in public lands administration.

[19] PLAR section 1 (1) (f) – authorization means an instrument, other than a formal disposition or an approval, by which an authorization under section 20 (1) (a) (b) or (c) of the Act is granted.

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Disposition Types and PLAR

Leases[20]

Farm Development Lease (FDL) – formal disposition

FDL is issued on public land that is suitable for cultivation, normally for a 10 year term for the purposes of agricultural development, including cultivation, haying and grazing. Some leases (very few) have residences on them (these usually came with the land when it was purchased under the RDA program or when donated to the Crown under the Buck for Wildlife program). Farm development leases with an option to purchase the leased land are no longer being issued. Although the primary use of the land is for cultivation, grazing on the area not suitable for cultivation is allowed.

Grazing Lease (GRL) – formal disposition

GRL is issued to authorize the grazing of livestock (defined in the Act), normally granted on public land where grazing is considered to be the best long-term use of the land. The leases can be issued for a term not exceeding 20 years (usually issued for ten years), although the grazing leases issued in a heritage rangeland may be issued for a term not exceeding 30 years. In some instances, grazing of bison is allowed by approval attached to the GRL. Leaseholders have exclusive right to the use of land for grazing purposes (see note in the previous section about exclusivity). Public access to lands under a grazing lease is governed by the Recreational Access Regulation under the *Public Lands Act*. Agreements for improving the quality of range on the grazing leases (Range Improvement Agreements) are issued subject to certain conditions. Although the *Public Lands Act* authorizes issuance of an ancillary agreement on grazing leases for residence purposes, such agreements are no longer issued. If government policy allows such purposes in the future, PLAR authorizes creation of disturbance standards for ancillary facilities.

Mineral Surface Lease (MSL) – formal disposition

A MSL is a lease that grants exclusive surface rights for the recovery of minerals. It is usually issued for wellsites (oil and gas), surface mines (coal and oilsands), quarries, in-situ oilsands, or battery sites. Some leases include access roads, processing facilities or other ancillary facilities in association with construction and operations. MSL is usually issued for 25 years.

[20] This is not a detailed account of how to go about with issuance or maintenance of the said dispositions (leases, licences etc) but a brief description of each type. For more details, staff should contact the appropriate program areas that deal with the dispositions.

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Miscellaneous Lease (MLL) – formal disposition

A MLL is issued for various industrial, commercial, recreational, and residential purposes that require the lessee to hold tenure and exclusive use of the land. Possible uses include plant sites, cottages, lodges, golf courses, horse holding sites, dog kennels, buildings, and other improvements. MLL may be issued for a term of up to 25 years. Note: Prior to issuing MLL for residential purposes, seek legal opinion.

Miscellaneous Townsite Lease (MTS) - formal disposition, although not expressly included as a formal disposition in PLAR

MTS is a lease that is issued for residence purposes within subdivisions and gives the lessee tenure to the land. These are no longer being issued. Ones that are in effect are being converted to MLL. Note: Prior to converting MTS to MLL for residential purposes, seek legal opinion.

Pipeline Installation Lease (PIL) – formal disposition

PIL is a lease that grants exclusive surface rights for pipeline installations. The area can be located outside the right of way (which is held under a pipeline agreement (PLA)). A PIL is issued for a term not exceeding 25 years.

Surface Materials Lease (SML) – formal disposition

A SML is a lease for the purpose of extracting surface materials, e.g. gravel, sands, clay, etc. Leases may be issued for a term of up to 25 years (are normally issued for 10 years). Lessees are required to pay royalties on surface materials extracted, in addition to the rent on land.

Recreational Lease (REC) – formal disposition, although not expressly included as a formal disposition in PLAR

It is a type of MLL issued for recreational purposes to municipalities and not-for-profit societies incorporated under the *Societies Act*, for developments such as youth and church camps and recreational facilities. Lease may be issued for a period of up to 25 years

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Licences

Forest Grazing Licence (FGL) – formal disposition

FGL is issued for livestock grazing (mostly) on forested lands, but also some in the settled area. This disposition grants exclusive right to pasture livestock on the land (exclusive right applies only to grazing on the licensed land). The maximum term is 10 years. FGL is renewable and may be assigned, mortgaged, transferred or reinstated (if the requirements are met) but can not be sub-let.

Licence of Occupation (LOC) – formal disposition

The primary use is for roadways. Other purposes include ice bridges, airstrips, pier sites, reservoirs, cooling ponds, settling ponds, ski slopes, water intake sites, bank stabilization, trails (hiking, skiing), irrigation/drainage ditches, gabions, erosion protection and for upland and wetland habitat programs, etc. Area under LOC is considered vacant disposition area (unless the area is a closed road under section 54.01 of the *Public Lands Act*). LOC is renewable and may be assigned, mortgaged, transferred or reinstated (if the requirements are met) but can not be sub-let.

Surface Materials Licence (SMC) – authorization

A licence granted for the removal of surface materials, where the applicant will be removing the material in a short period of time (1 year maximum). It is a temporary disposition that can not be assigned, sublet, mortgaged, transferred or reinstated. A SMC cannot be renewed but a new licence may be issued upon expiry (if appropriate).

Public Pit Licence (PPL) – authorization

A short term licence granted to individuals and companies for removal of surface materials. Maximum term is one year. This temporary disposition cannot be assigned, sublet, mortgaged, transferred or reinstated.

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Permits

Access Permit – authorization

This is a new type of disposition (authorization) introduced in PLAR for authorizing short term use of vacant public land for recreational use or activity that is

- likely to occur for more than 14 days (for example, random camping that is likely to exceed 14 days)
- likely to cause loss or damage to the vacant public land
- likely to contravene the disturbance standard applicable to the vacant public land
- likely to occur in an area where a closure is in effect
- likely to occur in an area where entry is prohibited

An access permit is issued for a period of 14 days and is not renewable or assignable. Access permits can also be issued to authorize the use of vacant public land for commercial purposes for a period not exceeding 14 days. In addition, PLAR authorizes the use of access permits for other purposes identified in a departmental directive, policy, guideline etc and approved by a Ministerial order.

Temporary field authorizations are being used (instead of access permits) to authorize the short term use of vacant public land for recreational and commercial activities indicated above, until the operating procedures are developed and adopted.

Commercial Trail Riding Permit (CTR) – formal disposition

Permit issued to authorize use of land for recreational horseback riding trips of varying duration. Normally issued for a one year term but may be issued for a term of five years, if the applicant has conducted trail riding operations in a manner satisfactory to the director, during the preceding three years. Unlike other permits, CTR is considered a formal disposition in PLAR and can be renewed, assigned, mortgaged, transferred or reinstated, but can not be sublet. CTR is classed as a formal disposition because of the high degree of due diligence required for issuance and they provide significant rights and obligations for CTR holders, but it does not give the holder exclusive rights to the land, as the area under a CTR is considered a vacant disposition area under PLAR.

Cultivation Permit (CUP) – formal disposition

This is a short term disposition, issued for a one year term to allow cropping on Crown land that is already under cultivation. No new clearing or breaking on the land is allowed. The normal term is one year unless the permittee wants to summer-fallow the land in which case a two- year term is authorized. It is a temporary disposition that cannot be assigned, sublet, mortgaged, transferred or reinstated but can be renewed. Currently it is considered to be a formal disposition in PLAR (an error to be rectified in the future).

Grazing Permit (GRP) – authorization

Issued on an annual basis for exclusive grazing of livestock on a parcel of Crown land – is a temporary disposition that cannot be assigned, sublet, mortgaged, transferred or reinstated but can be renewed. GRP is not a formal disposition in PLAR but is an authorization.

Hay Permit Authorization (HAP) – authorization

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Issued on an annual basis to authorize cutting of hay on vacant public land – is a temporary disposition that cannot be assigned, sublet, mortgaged, transferred or reinstated. Currently, the hay permits are issued as Temporary Field Authorizations (TFA). While PLAR allows for renewal of authorizations, these authorizations are not renewed in practice and are re-issued annually on a first come first serve basis.

Head Tax Permit – authorization

Head Tax Permits are issued on an annual basis to authorize grazing of livestock on public land. There are no other rights with respect to the land given to the holder of the Head Tax Permit. A common use of these permits is to authorize patrons on Provincial Grazing Reserves to graze their share of the reserve. It is a temporary disposition that cannot be assigned, sublet, mortgaged, transferred or reinstated. While PLAR allows for renewal of authorizations, these permits are not renewed in practice and are re-issued annually. For billing purposes, the head tax permits issued in the green area are coded as HTG and the head tax permits issued in the white area are coded as HTW.

Miscellaneous Permit (MLP) - authorization

MLP is a disposition that is issued for a one year term for purposes such as trapper cabins, horse holding areas, temporary campsites, storage sites etc. They were historically renewed annually or converted to miscellaneous leases, if certain criteria were met. They can no longer be assigned, sublet, mortgaged, transferred or reinstated.

Agreements

Ancillary Agreement (AAG) – approval

AAG is an agreement issued in conjunction with a grazing lease, usually for a residence site. These agreements are being phased-out as they come up for renewal. (In certain circumstances these agreements might be replaced by dispositions authorized by an applicable disturbance standard authorizing ancillary facilities on certain dispositions.) Under PLAR, AAG is considered an approval.

Easement (EZE) – formal disposition

A right of access across Crown land, usually for the installation of utilities. Power line right of way, often to service well sites of other facilities and usually held by a power company, is an example of this type of disposition. The disposition is issued for an indefinite term. This is a formal disposition in PLAR, but the area under an easement is considered to be a vacant disposition area.

Pipeline Agreement (PLA) – formal disposition

A right of way agreement for the purpose of installing a pipeline or flow line and are issued for an indefinite time period. The area under a PLA is considered vacant disposition area under PLAR.

Rural Electrification Association Easement (REA) – formal disposition

REA is a type of an easement, used for power line right of way and is authorized, without charge, to rural electrification associations, for an indefinite term. This disposition is of historic importance only and is no longer being issued.

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Vegetation Control Easement (VCE) – approval

An easement issued for an area adjacent to a disposition such as power line right of way where the power company is required to control the vegetation. Generally VCE is connected with another disposition and as such is to be considered as an approval under PLAR. To avoid confusion with other 'easements' that are formal dispositions, it is likely that that VCE would be renamed (for example, vegetation control approval).

Conditional Surrender of Lease (CSL) – approval

An agreement between a disposition holder and a lender (usually a bank or another financial institution approved by the Government) when the disposition on public land is being used as security for a loan. Registration of CSL is the means by which the department consents to a mortgage of a formal disposition. If the formal disposition is cancelled, the lender gets up to one year to find a replacement disposition holder for the land. The CSL cannot be renewed, assigned, sublet, mortgaged, transferred or reinstated.

Sub-lease – approval

A sub lease is an agreement between a lease holder and a third party for occupation of a lease area. The sublease agreements are registered (at the present time) as Private Surface Agreement (PSA) in the departmental records. The sub lease can not be renewed, assigned, sublet, mortgaged, transferred or reinstated.

Authorizations

Activities that are authorized under section 20 of the *Public Lands Act* for temporary short term use of land that authorizes entry and occupation of vacant public land. They are issued under s. 12 of PLAR.

Temporary Field Authorization (TFA)

TFA is issued for temporary use of public lands when the term of the activity is less than one year (e.g. soil testing, campsites). TFA issuance is guided by the TFA manual. Currently, TFA is also being used to authorize activities that require issuance of access permits.

Coal Exploration Program (CEP)

CEP is authorized under section 20 of the *Public Lands Act* for coal exploration purposes for one year.

Oilsands Exploration Program (OSE)

OSE is also authorized under section 20 of the *Public Lands Act* for oil sands exploration purposes for one year

Surface Materials Exploration (SME)

SME is an authority granted for one year to explore blocks of land for surface materials.

Wild Rice Operation (WRO)

WRO is issued on Crown beds and shores of water bodies for the purpose of growing wild rice. Initially issued for one to two years and may be renewed for five years.

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Other Instruments

Right of Entry Order (ROE)

When an operator as defined in the Surface Rights Act can not obtain consent from an occupant as defined in the Surface Rights Act to enter a parcel of public land, or if an agreement concerning compensation cannot be reached between the operator and the occupant, either party may apply to the Surface Rights Board for a right of entry or a compensation order. If ROE is granted, the right of entry establishes the terms and conditions of access to the parcel. An ROE may be issued on public land whether or not it is under disposition. The ROE process is separate from the public lands administration.

Ecological Corridor Agreement (ECA)

ECA is an agreement, for the protection of a watercourse affecting public land that is being sold. The ECA is registered under section 21 of the *Public Lands Act* against title and requires the purchaser to maintain a buffer of undisturbed vegetation adjacent to a watercourse. Some ECA are registered as caveats against the land title, but the practice of using caveats instead of section 21 should be discouraged. The reason being, under the *Land Titles Act*, a caveat can be removed simply using a court process (this gives the department less control over the situation).

Note: ECA are monitored by the department but are not part of the public lands administration. ECA are in the nature of a reservation and are not dispositions.

Private Surface Agreement (PSA)

PSA is an agreement between a purchaser of public land and an existing disposition holder (e.g. an oil company). This agreement is registered against title when the title is issued to the purchaser.

Note: PSA is not a disposition. Public lands administration is not involved in enforcing or dealing with PSA. However, purchasers are required to enter into PSA with disposition holders to replace existing dispositions, prior to transfer of title.

Currently, sublease agreements are entered in the departmental records as Private Surface Agreements. This procedure is under review.

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Permissions Granted in Conjunction with *Mines & Minerals Act*

These authorizations are not issued under section 12 of PLAR and PLAR application processes and appeals do not apply. The public lands administration authority to enter on and occupy public land for the purposes stated in the *Mines and Minerals Act* is granted under the legal authority of section 20 of the *Public Lands Act*, which is one reason the Exploration Regulation and the Metallic and Industrial Minerals Exploration Regulation are made jointly under both Acts (*Public Lands Act* and *Mines and Minerals* Act)

Geophysical (GEO)

Geophysical exploration programs are conducted to map subsurface geology to locate potential petroleum and natural gas reserves. They are approved as a letter of authority pursuant to the *Mines and Minerals Act* and the Exploration Regulation. All approvals expire on April 30th of the year regardless of when they were issued.

Metallic Mineral (MME)

Metallic mineral exploration programs are utilized to find and evaluate mineral deposits and industrial rock formations to determine if they are feasible for mining. They are issued as letters of authority under the *Mines and Minerals Act* and the Metallic and Industrial Minerals Exploration Regulation. All approvals expire on April 30th of the year, regardless of when they were issued.

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Conclusion

The handbook is an introductory document that attempts to clarify the use of various instruments provided for in the *Public Lands Act* and PLAR for public land administration. The handbook provides principles to assist public land administrators and managers in conducting their day to day operations. This will apply to work conducted by ESRD and work conducted by the Alberta Energy Regulator (the Single Regulator) after June 1, 2013. The handbook also serves as the framework and reference material for the PLAR Implementation task teams as they develop standard operating procedures for the various new provisions in PLAR.

As indicated previously, the handbook is part 1 of the information series dealing with the various provisions in the *Public Lands Act* and PLAR that affect the way Environmental and Sustainable Resource Development conducts public land administration. However, the document is to be viewed as 'work in progress' and is a living document on how to employ the various instruments outlined to carry out its day to day operations as they relate to public land management and administration. Parts 2, 3 and 4 will be made available in the coming months.

Public lands administration will continue to evolve to meet the demands of Albertans and for the benefit of present and future generations. The handbook will be modified from time to time to reflect any changes to public land administration. As new ideas and innovations emerge, public lands administrators and managers must adapt and apply the principles outlined in this handbook to develop new and responsive instruments.

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